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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,771	11/03/2000	Michael F. Marlin		4378

7590 04/23/2004

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EXAMINER

MILLER, BENA B

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/704,771

Applicant(s)

MARLIN, MICHAEL F.

Examiner

Bena Miller

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 22-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaiani.

Regarding claims 22 and 27, Vaiani teaches in the figures most of the elements of the claimed invention, including a helical section (70), a handle being integral with said helical section (fig.2), the handle comprising a straight section (72,74) and metal material (col. 4, par. 3). Regarding claim 22 and 23, Vaiani fails to teach the helical section's length ranging from about two and three quarters inches to about six inches and the handle length ranging from about 3 ½ inches to about 6 ½ inches. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the helical section's length of Vaiani ranging from about two and three quarters inches to about six inches and the handle's length ranging from about 3 ½ inches to about 6 ½ inches since it known in the art to have the helical section and handle between the claimed range for the purpose of grasping the end of the handle.

Regarding claim 24, Vaiani fails to teach the helical section's diameter ranging from about ¼ inch to about 1 inch. It would have been obvious to one having ordinary

Art Unit: 3712

skill in the art at the time the invention was made to have the helical section's diameter Vaiani ranging from about $\frac{1}{4}$ inch to about 1 inch since it known in the art to have the helical section for the purpose of providing a different size for different sized people.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaiani in view of Bidwell.

Vaiani teaches in the figures most of the elements of the claimed invention, as noted above. However, Vaiani fails to teach words printed along the length of the coils. Bidwell teaches a spring member (fig.4) having a word ("graphic") printed thereon. It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply printed words as taught by Bidwell in the helical section of Vaiani for the purpose of providing excitement when bouncing the spring.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vaiani in view of Molenaar.

Vaiani teaches in the figures most of the elements of the claimed invention, as noted above. However, Vaiani fails to teach a colored coiled toy. Molenaar teaches in figures 1-7 a coil spring toy (12) having a line in a configuration of a figure 42 made of paint, ink or colored plastic material secured or applied to the toy (col. 5, par. 7). It would have been obvious to one having ordinary skill in the art at the time the invention was made to apply color as taught by Molenaar to the coiled toy of Vaiani for the purpose of providing interest to the child when playing with the toy (col. 6, lines 13-16).

Art Unit: 3712

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bena Miller
Examiner
Art Unit 3712

bbm
April 21, 2004